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# ENVIRONMENTAL Fact Sheet

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## NH Toxics in Packaging Law

### Packaging and the Solid Waste Debate

Packaging has enabled us to enjoy the benefits of the world's most efficient product distribution system, delivering a rich variety of food, personal care products, hardware, and other consumer goods. Packaging keeps products safe, intact, and protected from tampering and damage until they reach the marketplace. However, packaging presents a significant public policy challenge, in that the value and utility of most packaging is relatively short-lived. Once a consumer purchases and uses a product, its package often ends up in the trash, where there is concern over the potential environmental and health effects from metals present in landfill leachate, incinerator ash, and stack emissions. Because packaging accounts for about one-third of the municipal solid waste stream, effective solid waste management systems must be in place to minimize the environmental impact of the discarded package. Hence, policymakers have focused on various proposals to reduce or otherwise divert packaging from municipal disposal systems through reuse, recycling, buy-recycled and composting programs.

### Reducing Heavy Metals in Packaging

From 1988 to 1996, the Coalition of Northeastern Governors (CONEG) played a lead role in the solid waste debate, not only in the Northeast states, but in other regions of the United States as well. CONEG's approach to addressing the solid waste problem was developed through policies and programs developed by its Source Reduction Task Force (SRTF). One of the products of the Task Force was the development of a Model Toxics in Packaging Law completed in 1989. The model legislation was drafted through a consensus process involving representatives from the nine CONEG states (including New Hampshire), concerned non-profit and environmental organizations, and representatives of affected industries.

### Model Legislation

The law prohibits the "intentional" addition of mercury, lead, cadmium, and hexavalent chromium to packaging and packaging components. Because the raw materials used to make packaging may contain background levels of these metals, which occur naturally or as a result of contamination by other sources of these metals in the environment, the model provides a maximum of 100 parts per million for the *sum* of the four regulated metals. All packages, including their immediate subassemblies of coatings, inks, and labels ("packaging components"), whether offered for sale or for promotional purposes in a state with the law, are covered by the model legislation.

New Hampshire passed the original law in 1990 and updated the statute in 1996 and again in 1999. At least 18 other states have also enacted laws based on the Model: Connecticut, Florida, Georgia, Illinois, Iowa, Maine, Maryland, Minnesota, Missouri, New Jersey, New York,

Pennsylvania, Rhode Island, Vermont, Virginia, Washington and Wisconsin. California became the most recent addition to the group when it adopted the model legislation in 2003.

**Exemptions:** There are exemptions for industries that can not comply with the standards without compromising essential functions or violating federal or state safety and health requirements. Exemptions are limited to two years, except for those applying to recycled-content products, and are renewable for an additional two years. The law exempts packages and packaging components:

- Manufactured prior April 27, 1990.
- To which regulated metals have been added to ensure the package complies with federal health and safety requirements.
- To which regulated metals have been added during production for which there is no feasible, technical alternative.
- That use post-consumer recycled materials.
- That have reusable entities.
- That are glass or ceramic and have a vitrified label.

**Self-Certification for Manufacturers and Suppliers:** The Model legislation requires affected industries to self-certify their compliance with the law. Manufacturers and distributors of packaging and packaging components are required to furnish a certificate of compliance to the purchasers of packaging. The certificate must state that the package or packaging component complies with the statute or explain the basis for any exemption claimed. An authorized company official must sign the original certificate and new or amended certificates. (This applies to companies who actually put their products in the package and does not apply to the retailer or the individual customer.) The public and the State have access to these certificates.

### **Toxics in Packaging Clearinghouse**

The Toxics in Packaging Clearinghouse (TPCH) was created in 1992 to ease the administrative and logistical burdens associated with the Toxics in Packaging laws on state agencies and regulated companies and to encourage consistency in the law's implementation. Comprised of representatives of each of the member states, the TPCH receives and processes requests for exemptions, information, and clarification of provisions or definitions concerning implementation of the Toxics in Packaging laws enacted by one or more of the member states. A technical group composed of representatives from industry and public interest organizations advises the TPCH in its review and considerations of exemption requests. The Clearinghouse is administered by the Northeast Recycling Council (NERC).

### **Summary**

Enacting the model law in 19 states across the country has made a significant dent in the levels of toxic metals in packaging. Essentially all industries involved in interstate commerce comply with the law on a national basis in order to avoid the risk of non-compliance in those states that have adopted toxics in packaging legislation.

### **For More Information**

Inquiries regarding the TPCH and the model legislation should be directed to NERC to [info@ToxicsInPackaging.org](mailto:info@ToxicsInPackaging.org). Questions specific to New Hampshire's law can be directed to Sharon Yergeau at the Department of Environmental Services, Waste Management Division (603) 271-2918.